

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING

Indiana Government Center South
402 West Washington Street
Conference Center Room A – 1:30 p.m.
Indianapolis, Indiana
March 17, 2009

The meeting was called to order by Mayor William Graham, Chairperson, at 1:30 p.m. Those present for all or part of the meeting were:

Mr. Michael Carnahan
Mr. Marlin Chambers
Mr. Rick Dyar
Mr. Chuck Himes
Dr. Ted Niemiec
Mr. Brandon Seitz
Mr. Jason Ward
Ms. Deborah Albright, Board Counsel
Mr. Howard Cundiff, (Proxy, Indiana State Department of Health)
Mr. Tom Hohman (Proxy, Department of Natural Resources)

A quorum was present.

In addition, the following Indiana Department of Environmental Management (IDEM) staff members were present for all or part of the meeting:

Mr. Thomas Easterly, Commissioner
Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality
Mr. Mike Dalton, Section Chief, Rules Development Branch, Office of Legal Counsel
Ms. Lynn West, Rules Development Branch, Office of Legal Counsel
Ms. Kiran Verma, Rules Development Branch, Office of Legal Counsel
Ms. Lydia Kuykendal, Rules Development Branch, Office of Legal Counsel
Ms. Janet Pittman, Rules Development Branch, Office of Legal Counsel
Ms. Betsy Rouse, Rules Development Branch, Office of Legal Counsel
Ms. Ann Long, Attorney, Office of Legal Counsel
Mr. Larry Studebaker, Section Chief, Geological Services Section, Office of Land Quality
Mr. Steven Poe, Geologist, Science Services Branch, Office of Land Quality

1. Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of November 18, 2008. There being none, Mayor Graham asked for a motion to approve the minutes. Dr. Ted Niemiec so moved and Mr. Marlin Chambers seconded. The motion passed unanimously. APPROVAL OF MINUTES
2. Mayor Graham asked Mr. Bruce Palin, Assistant Commissioner, to address the Board. Mr. Palin explained recent changes made in the agency. He said that through reorganization, the Office of Enforcement has been merged into the IDEM program areas of Air, Water, and Land Quality Offices and located near compliance staff, which will help carry out enforcement duties more efficiently. Also, he stated that IDEM has centralized the Rulemaking sections and has combined all Rules Programs under the Office of Legal Counsel in order to share some administrative tasks and coordinate the rulemaking process, while still working closely with the respective program managers. Mr. Palin said that the last change taking place is the relocation of the Compliance Branch staff from the Shadeland offices into the Office of Land Quality on the 11th floor of the Indiana Government North Building. Approximately 50 people who did inspections and compliance IDEM REPORTS

will be moving and should ultimately increase coordination between compliance and permitting staff, while reducing leasing costs. The spill response staff will remain at the Shadeland office for a while to access their equipment. Mr. Palin was asked if only the solid waste compliance branch were moving, to which he replied that he believed there were plans to move the drinking water staff to the 12th floor of the Indiana Government Center North.

Mr. Palin noted that due to the creation of the virtual file cabinet, paper files have been eliminated, which will allow for the Drinking Water Branch to move downtown also and save the agency leasing expenses.

Ms. West distributed the Rulemaking Projects list and said that there were some new rules that do not appear on this list and reviewed the new rules.

- a. LSA #09-193 – Development of New Rules at 329 IAC 11.5 Concerning Registration of Biomass Anaerobic Digesters, Gasifiers, and Boilers, and Mobile Home Salvaging Operations
- b. LSA #09-194 – Development of New Rules at 329 IAC 11.7 Concerning Registration of Facilities That Use Industrial or Commercial Waste as an Alternative Fuel Source
- c. LSA #09-145 – Emergency CAFO Rule that temporarily amends CAFO's (Concentrated Animal Feeding Operations) and NPDES Permits

Ms. West then stated that a few Board members had not taken the ethics training, which is a requirement for Solid Waste Board members to take and suggested that they could go on-line and IDEM will be notified upon completion of that training.

Ms. West welcomed Mr. Marlin Chambers back to the Board meeting. She also commented that due to fiscal constraints, there would be no away training meeting this year, but asked board members to think of ideas for possibly the following spring.

3. Mayor Graham announced the following rulemaking actions:

- a. LSA #08-673 - Final adoption of amendments to the Hazardous Waste Management Rules concerning the 2008 Update and amendments to the F019 Hazardous Waste Listing under 329 IAC 3.1. The hearing was noticed in the Indiana Register on February 4, 2009, at DIN: 20090204-IR-329080673PHA. The proposed rule was published in the Indiana Register on February 4, 2009, at DIN: 20090204-IR-329080673PRA.
- b. LSA #08-209 - Preliminary Adoption of amendments to 329 IAC 5, concerning Environmental Impact Statements for Major State Actions. The draft rule was published in the Indiana Register on October 22, 2008, at DIN: 20081022-IR-329080209SNA. This hearing was noticed in the Indiana Register on December 24, 2008, as a change of hearing, and can be found at DIN: 20081224-IR-329080209CHA.

Mayor Graham said that the stated rules were included in the Board packets for this meeting and were available for public inspection in the file room of IDEM, located on the 12th floor of the Indiana Government Center North, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. Instructions were given to the public regarding offering oral statements and comments to the Board. He said that all comment cards should have been submitted. The court reporter was affirmed.

4. Mayor Graham announced the public hearing to consider final adoption of LSA #08-673, Amendments to the Hazardous Waste Management Rules concerning the 2008 Update and Amendments to the F019 Hazardous Waste Listing under 329 IAC 3.1 Rule. He introduced Exhibit A, the proposed rule, into the record of the hearing. Mayor Graham asked Mr. Steve Mojonniere to address the Board.

FINAL ADOPTION OF
AMENDMENTS TO THE
2008 HAZARDOUS WASTE
UPDATE AND
AMENDMENTS TO THE
F019 HAZARDOUS
WASTE LISTING UNDER
329 IAC 3.1.

Mr. Mojonniere reviewed the history of the rulemaking activities. He explained that the rule includes three amendments to the hazardous waste rules.

- a. Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas, published by the Environmental Protection Agency (EPA) January 2, 2008. This rule is intended to assist in promoting the recycling of oil-bearing hazardous secondary materials generated by the refining industry. It amends an existing exclusion for oil-bearing hazardous secondary materials when they are processed in a gasification system at a petroleum refinery for production of synthesis gas. This exclusion will help obtain as much energy from a barrel of oil as possible to help maximize production efficiencies at petroleum refineries.
- b. The second change adopts amendments to the National Emissions Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. This rule clarifies several compliance and monitoring provisions and corrects omissions and typographical errors.
- d. The third change adopts amendments to Hazardous Waste Code F019, which will involve certain motor vehicle manufacturing plants. Mr. Mojonniere stated that IDEM is proposing to repeal 329 IAC 3.1-6.7 to remove the existing delisting rule for F019, waste water treatment sludge generated by General Motors (GM) Fort Wayne Assembly Plant. The current delisting rule is stricter than the F019 Amendments IDEM is proposing to adopt. The delisting rule requires GM to perform quarterly testing not required under the EPA amendments.

Mr. Mojonniere then recommended that the board final adopt the 2008 Hazardous Waste Annual Update and F019 amendments as presented today in Exhibit A.

Mayor Graham asked if there were questions from the Board. There were none. Mayor Graham then asked Mr. Jeff Hummel, General Motors Corporation, to offer public comment to the board.

Mr. Hummel began by stating General Motors' support for final adoption of changes to the Hazardous Waste Management Program including changes to the F019 Hazardous Waste Delisting. He said that the changes to the F019 delisting reduces disposal cost with no threat to the environment, the changes will reduce the burden related with current delisting arrangements, and that the F019 sludge generated at their assembly plants have not had any of the contaminants of concern for which the listing was written. He thanked IDEM for the opportunity to present GM's views. He added that Tom Vallone, General Motors, may be contacted for additional information. Please see pages 18 through 19 of the official transcript for a verbatim account.

Mayor Graham concluded the hearing. There were no further questions from the Board or any other individuals, so he asked for a motion to final adopt the rule as presented. Dr. Ted Niemiec moved and Mr. Brandon Seitz seconded. The motion passed unanimously.

- | | |
|---|--|
| 5. Mayor Graham announced the public hearing to consider final adoption of #08-209, concerning Environmental Impact Statements for Major State Actions at 329 IAC 5. He then introduced Exhibit B, the proposed rule as preliminarily adopted into the record of the hearing. He asked Ms. Ann Long, Office of Legal Counsel, to address the Board. | PRELIMINARY ADOPTION AMENDMENTS TO 329 IAC 5 ENVIRONMENTAL IMPACT STATEMENTS FOR MAJOR STATE ACTION |
|---|--|

Ms. Long explained that this rulemaking for preliminary adoption was started to simplify and approve rules for the environmental assessment process mandated for Indiana law for Indiana state agencies. State agencies are the only faction affected by this rulemaking. She stated that the proposed rule will offer a clearer definition of “Major state actions that significantly affect the quality of the human environment”, which is required under Indiana Code 13-12-4-5. Ms. Long also said that the Air, Water and Solid Waste Boards are all receiving these rule amendments for consideration.

Ms. Long explained that the purpose of the rule is to assist state agencies in their planning and decision making for determining the environmental impact of a state action. She said the State statute and the rules are based on the Federal Environmental Policy Act, but generally exclude any major state action that requires an environmental impact assessment under that federal law.

Ms. Long reviewed the history of the Indiana rules. She stated that IDEM has had several work group meetings for this rulemaking including representatives of state agencies, which execute these state-mandated environmental assessments, and the concerned public. She also said important issues had been resolved, i.e. defining “state agency” for purposes of this rulemaking.

Ms. Long also explained that IDEM has no role in the assessment process, only as a consultant to the assessing agency. She said the rules are intended to provide a process for state agencies as to when and how environmental assessments are performed.

Chairperson Graham then asked if there were any questions from the Board. There were none. Mayor Graham then asked for public comment. There were no commentators on the draft rule so the hearing was concluded. There being no further questions or comments Mayor Graham asked for a motion to preliminarily adopt Exhibit B, the rule as presented. Mr. Mike Carnahan so moved and Mr. Marlin Chambers seconded. The motion passed unanimously.

- | | |
|---|--|
| 6. Mayor Graham announced the presentation of the non-rule policy document, NPD-Waste-0053, Drilling Procedures and Monitoring Well Construction Guidelines, IC 25-17.6, IC 25-39, 312 IAC 12, 312 IAC 13, and 329 IAC 9. Mr. Larry Studebaker, Chief, Geological Services Section, Office of Land Quality, was introduced as the presenter. Mr. Studebaker began by recognizing Mr. Steve Poe, Geologist, Geological Services Section, for his work in developing, writing, and revising various drafts of this nonrule policy. He said it was mainly designed to help people who conduct or evaluate subsurface investigations for programs in the Office of Land Quality, Remediation Services Branch that are not normally covered by rules. He noted that programs such as the RCRA Subpart C & D, hazardous and solid waste areas already have comprehensive rules and guidance governing them and are specifically excluded from this nonrule policy document. | NONRULE POLICY DOCUMENT NPD-WASTE-0053 |
|---|--|

Mr. Studebaker explained that this document was developed after several environmental consultants requested guidance regarding drilling procedures and monitoring well installation requirements at remediation sites. It has been posted in draft form for several years in various formats, and consists of input from different consultants who work on remediation sites. He said it doesn't take precedence over any rule or specifications, but is designed to provide guidance in remediation programs. He commented that this policy utilizes the Monitoring Well element from the Indiana Department of Natural Resources Water Well Drilling and Installation Rules, 312 IAC 12 and 312 IAC 13. It also includes references to the Leaking Underground Storage Tank Program requirements of 329 IAC 9. He said that this allows for a single document, which is basically general but also includes references from the Leaking Underground Storage Tank Program. He said that it also references license requirements for water well drillers, IC 25-39, and for geologists, IC 25-17-6. The nonrule policy outlines various drilling methods, borehole use, general sampling requirements, monitoring well construction and well development, and well abandonment procedures in a logical progression without the inclusion of other well types, such as public water supply wells, geothermal heat pump wells, dewatering wells, etc.

Mr. Studebaker stated that this is a flexible, comprehensive, one-stop reference from initially drilling a hole to monitoring well installation, abandonment and plugging at remediation sites. It is helpful for planning and evaluating the best drilling method, as well as a field reference during any stage of drilling, monitoring well installation or monitoring well abandonment. IDEM recently received some comments on March 13 and March 16, 2009, which are available. He stated that they have reviewed them and have concluded that there is no need for any substantial changes in the nonrule policy document. He said the comments make some points where clarity can be improved in some areas, which can be done without any major changes in the nonrule policy.

Mayor Graham asked if there were any questions, and Mr. Howard Cundiff asked if Mr. Studebaker planned some additional changes. Mr. Studebaker replied that there will be some enhancements or expansions in a few areas. For a verbatim account of Mr. Studebaker's presentation, please see pages 26 through 30.

7. Mayor Graham announced that the Board was interested in hearing from the public on topics of interest and potential rulemakings on Title 329. There were no speaker cards and no public comments. OPEN FORUM

Mayor Graham welcomed back Mr. Marlin Chambers and also recognized Commissioner Thomas Easterly at this meeting.

8. Mayor Graham adjourned the meeting at 2:05 p.m. ADJOURNMENT

The next meeting is scheduled for Tuesday, May 19, 2009, at 1:30 p.m. at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana
